

IC 31-33-19

Chapter 19. Administrative Hearing Requested by Alleged Perpetrator to Amend or Expunge a Substantiated Child Abuse or Neglect Report

IC 31-33-19-1**Conduct of administrative hearing**

Sec. 1. Except as provided in sections 6 and 7 of this chapter, the division of family and children shall conduct an administrative hearing under IC 4-21.5-3 upon a request made under IC 31-33-17-8.
As added by P.L.1-1997, SEC.16.

IC 31-33-19-2**Burden of proof**

Sec. 2. At the administrative hearing, the classifying agency must prove by some credible evidence that the alleged perpetrator is responsible for the child's abuse or neglect.
As added by P.L.1-1997, SEC.16.

IC 31-33-19-3**Hearsay evidence**

Sec. 3. During an administrative hearing under section 1 of this chapter, the administrative hearing officer shall consider hearsay evidence to be competent evidence and may not exclude hearsay based on the technical rules of evidence. However, a determination may not be based solely on evidence that is hearsay.
As added by P.L.1-1997, SEC.16.

IC 31-33-19-4**Amendment or expungement of report**

Sec. 4. If the classifying agency fails to carry the burden of proof under section 2 of this chapter, the division of family and children shall amend or expunge the report as ordered by the administrative hearing officer within the period provided under section 8 of this chapter.
As added by P.L.1-1997, SEC.16.

IC 31-33-19-5**Confidentiality**

Sec. 5. (a) The confidentiality of an abuse or a neglect report must, to the extent possible, be maintained during the administrative process.

(b) The administrative hearing shall be closed.

(c) The administrative files shall be closed and not disclosed to the public.

As added by P.L.1-1997, SEC.16.

IC 31-33-19-6**Binding effect of court determination; stay pending court action**

Sec. 6. (a) If a court having jurisdiction over a child in need of

services has determined or is anticipated to determine whether a report of suspected child abuse or neglect is substantiated, the determination of the court is binding.

(b) The administrative hearing under this chapter shall be stayed pending an anticipated action by the court.

As added by P.L.1-1997, SEC.16.

IC 31-33-19-7

Judicial review as bar to administrative hearing

Sec. 7. A person named as an alleged perpetrator in a report of suspected child abuse or neglect whose report is reviewed by a court is not entitled to an administrative hearing under this chapter.

As added by P.L.1-1997, SEC.16.

IC 31-33-19-8

Time for expungement

Sec. 8. (a) The division of family and children shall expunge identifying information in a substantiated report contained within the registry as follows:

(1) Not later than ten (10) working days after any of the following occurs:

(A) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

(B) An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

(C) A court having criminal jurisdiction over a case involving child abuse or neglect in which criminal charges are filed and the court:

- (i) dismisses the charges; or
- (ii) enters a not guilty verdict.

(2) Not later than ten (10) working days after the period of informal adjustment ceases under IC 31-34-8.

(3) Not later than six (6) months after the date that the division of family and children enters the report into the registry as the result of a person's failure to successfully participate in a services referral agreement under IC 31-33-13.

(4) Not later than twenty (20) years after a court determines that a child is a child in need of services based upon the report.

(b) However, if subsection (a)(1) through (a)(4) does not apply, the division of family and children shall expunge the report not later than when the child who is named as the victim of child abuse or neglect reaches twenty-four (24) years of age.

As added by P.L.1-1997, SEC.16.

IC 31-33-19-9

Amendment or expungement of substantiated report containing inaccuracy

Sec. 9. The division of family and children shall immediately

amend or expunge from the registry a substantiated report containing an inaccuracy arising from an administrative or a clerical error.
As added by P.L.1-1997, SEC.16.